

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF DUKE ENERGY )  
INDIANA, INC. FOR APPROVAL OF A )  
CHANGE IN ITS MIDWEST INDEPENDENT )  
SYSTEM OPERATOR MANAGEMENT )  
COST AND REVENUE ADJUSTMENT )  
FACTOR UNDER ITS STANDARD )  
CONTRACT RIDER NO. 68 )

CAUSE NO. 42736 RTO 12

APPROVED: DEC 19 2007

**BY THE COMMISSION:**

**David E. Ziegner, Commissioner**

**Scott R. Storms, Chief Administrative Law Judge**

On October 23, 2007, Duke Energy Indiana, Inc. ("Duke Energy Indiana," "Petitioner" or "Company") filed its Verified Application ("Verified Application") requesting that the Indiana Utility Regulatory Commission ("Commission") approve a change in the adjustment factor under Duke Energy Indiana's Standard Contract Rider No. 68 entitled Midwest Independent System Operator Management Cost And Revenue Adjustment ("Rider No. 68") to be used for Duke Energy Indiana's January, February and March, 2008, retail electric billing cycles.

Pursuant to proper notice of hearing, published as required by law, proof of which was incorporated into the record by reference, a public Evidentiary Hearing was held in this Cause on Monday, December 3, 2007 at 9:30 a.m., EST, in Room 222 of the IURC Conference Center, 101 West Washington Street, Indianapolis, Indiana. Duke Energy Indiana and the Indiana Office of Utility Consumer Counselor ("OUCC") appeared and participated at the hearing.

At the hearing, Duke Energy Indiana offered into evidence its case-in-chief in support of its Verified Application, consisting of the Verified Application and the testimony and exhibits of Ms. Maria T. Birnbaum, Duke Energy Shared Services, Inc.'s Director, Rate Services, Indiana Rate Department, Mr. John D. Swez, Duke Energy Shared Services, Inc.'s Director, Bulk Power Marketing and Trading, and Mr. Edward F. Kirschner, Duke Energy Shared Services, Inc.'s Director, Asset Management. The OUCC offered into evidence the testimony and exhibit of Mr. Wes R. Blakley, a Principal Utility Analyst for the OUCC and the testimony of Ms. Stacie R. Gruca, a Utility Analyst for the OUCC.

Based upon the applicable law and the evidence herein, this Commission now finds:

1. **Notice and Jurisdiction.** Due, legal and timely notice of the Evidentiary Hearing in this Cause was given as required by law. Duke Energy Indiana is a public utility within the meaning of Ind. Code § 8-1-2-1, as amended, and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana, including the Public Service Commission Act, as amended, Ind. Code § 8-1-2. Therefore, this Commission has jurisdiction over Duke Energy Indiana and the subject matter of this Cause.

2. **Duke Energy Indiana's Characteristics.** Duke Energy Indiana is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office in the Town of Plainfield, Indiana, and is a second tier wholly-owned subsidiary of Duke Energy Corporation. Duke Energy Indiana is engaged in rendering retail electric utility service in the State of Indiana and owns, operates, manages and controls, among other things, plant and equipment within the State of Indiana used for the production, transmission, delivery and furnishing of such service to the public.

3. **Background and Relief Requested in this Cause.** In its most recent rate case, Cause No. 42359 (*Ind. Util. Reg. Comm'n*, May 18, 2004), Duke Energy Indiana proposed, among other things, Rider No. 68 to track for recovery from (or credit to) its retail electric customers certain Company costs and transmission revenues related to Duke Energy Indiana's participation in the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO" or "MISO"). In our May 18, 2004 Order in Cause No. 42359 ("May 18, 2004 Order"), we approved, among other matters, Duke Energy Indiana's proposed Rider No. 68. (May 18, 2004 Order, pp. 120 and 145.) Certain modifications were subsequently made to Rider No. 68 in Cause No. 42736 (*Ind. Util. Reg. Comm'n*, December 15, 2004) and Cause No. 42736 RTO 4 (*Ind. Util. Reg. Comm'n*, December 21, 2005).

Under Rider No. 68, Duke Energy Indiana tracks for recovery from, or credit to, Duke Energy Indiana's retail electric customers, the following on a quarterly reconciled basis: (i) Midwest ISO management costs billed to Duke Energy Indiana (or a designee of the Company) by the Midwest ISO under Schedules 10 (ISO Cost Recovery Adder) and 10-FERC (FERC Annual Charges Recovery), or a successor provision of either, of the Midwest ISO Open Access Transmission and Energy Markets Tariff ("Midwest ISO TEMT"), or any successor tariff of the Midwest ISO, which are allocable to Duke Energy Indiana's retail electric customers; (ii) Midwest ISO management costs billed to Duke Energy Indiana (or a designee of the Company) by the Midwest ISO under Schedule 16 (Financial Transmission Rights ("FTR") Administrative Service Cost Recovery Adder), or a successor provision, of the Midwest ISO TEMT, or any successor tariff of the Midwest ISO, which are allocable to Duke Energy Indiana's retail electric customers; (iii) Midwest ISO management costs billed to Duke Energy Indiana (or a designee of the Company) by the Midwest ISO under Schedule 17 (Energy Market Support Administrative Service Cost Recovery Adder), or a successor provision, of the Midwest ISO TEMT, or any successor tariff of the Midwest ISO, which are allocable to Duke Energy Indiana's retail electric customers; (iv) costs billed to Duke Energy Indiana (or a

designee of the Company) by the Midwest ISO under the Midwest ISO TEMT, or any successor tariff of the Midwest ISO, for standard market design ("SMD") which are allocable to Duke Energy Indiana's retail electric customers; (v) other government mandated transmission costs Duke Energy Indiana is required to pay on behalf of its retail electric customers; and (vi) certain Midwest ISO transmission revenues assigned to Duke Energy Indiana (or a designee of the Company), collected by the Midwest ISO under the Midwest ISO TEMT, or any successor tariff of the Midwest ISO, and which are allocable to Duke Energy Indiana's retail electric customers. (Petitioner's Exhibit A, pp. 5-6.)

Proposed Rider No. 68 adjustment factors are presented to this Commission on a quarterly basis. The current proposed Rider No. 68 adjustment factors would apply to Duke Energy Indiana's January, February and March, 2008 retail electric billing cycles. (Petitioner's Exhibit A, p. 2.)

**4. Proposed Rider No. 68 Adjustment Factors - Adjustments for Duke Energy Indiana's January, February and March, 2008 Retail Electric Billing Cycles.**

**Duke Energy Indiana's Proposed Rider No. 68  
Adjustment Factor Formula Inputs**

<b>Charge Category</b>	<b>Amount</b>
a) MISO Management Cost Adder – Schedules 10 & 10-FERC	\$1,195,477
b) MISO Management Cost, FTR – Schedule 16	\$173,104
c) MISO Management Cost Energy Market - Schedule 17	\$1,517,051
d) MISO SMD or other Govt. mandated transmission costs	\$9,292,851
e) MISO Transmission Revenue	\$1,811,024
f) Individual retail rate group's allocated share of retail peak demand	Petitioner's Exhibit A-1, page 3 of 4 (Rate group specific)
g) Individual retail rate group's kWh sales	Petitioner's Exhibit A-2 (Rate group specific)
h) Revenue Conversion Factor	1.02158

Ms. Birnbaum sponsored Petitioner's Exhibit A-1, which is Duke Energy Indiana's proposed revised Standard Contract Rider No. 68. Page 3 of this exhibit shows the Percent Share of Retail Peak developed for cost of service purposes in Cause No. 42359 based on the twelve-month period ended September 30, 2002, which is used to allocate cost to each retail group. (Petitioner's Exhibit A, p. 9.)

Ms. Birnbaum testified that Petitioner's Exhibit A-2 shows the individual retail rate group's billing cycle kilowatt-hour ("kWh") amount used to develop the respective proposed Rider No. 68 adjustment factors for Duke Energy Indiana's January, February and March, 2008 retail electric billing cycles. The kWh amounts are based on the Company's actual sales to each retail rate group for the months of January, February and March, 2007. (Petitioner's Exhibit A, p. 10.)

Ms. Birnbaum testified that Petitioner's Exhibit A-3 shows the actual booked costs and transmission revenues covered by Rider No. 68 for the months of June, July and August, 2007. Ms. Birnbaum explained that Petitioner's Exhibit A-3 also compares the actual net amount of the "a", "b", "c", "d" and "e" factors of the Rider No. 68 formula for the quarter (*i.e.*, a charge amount of \$10,367,459) to the quarterly level built into Duke Energy Indiana's base retail electric rates (*i.e.*, a credit amount of \$1,337,000) as calculated on page 1 of Petitioner's Exhibit A-1. Ms. Birnbaum further explained that the difference in these amounts (*i.e.*, a charge amount of \$11,704,459) is then increased by the applicable revenue conversion factor (*i.e.*, 1.02158) and allocated to the respective retail rate groups by the percentage allocators shown on page 3 of Petitioner's Exhibit A-1. Ms. Birnbaum concluded that the result is a total retail current charge amount of \$11,957,041, to be collected from Duke Energy Indiana's retail electric customers through the Rider No. 68 adjustment factors for its January, February and March, 2008 billing cycles. (Petitioner's Exhibit A, pp. 11-13.)

Ms. Birnbaum indicated that Petitioner's Exhibit A-4 shows the calculation of the proposed Rider No. 68 adjustment factors by retail rate group, including the June, July and August, 2007 reconciliation total credit of \$600,148, as developed on Petitioner's Exhibit A-5. Therefore, the total amount to be recovered through the Rider No. 68 adjustment factors for the January, February and March, 2008 billing cycles is \$11,356,893. Ms. Birnbaum testified that Petitioner's Exhibit A-6 compares the bill of a typical residential customer using 1000 kilowatt-hours per month based upon the proposed Rider No. 68 adjustment factor to the bill of a typical residential customer using 1000 kilowatt-hours per month based upon the approved factor from the most recent quarter. Ms. Birnbaum stated that under the proposed Rider No. 68 adjustment a typical residential customer will experience a decrease of \$0.15 on his or her base electric bill when compared to the previous quarter's base bill (excluding the effect of various "tracking mechanisms" as noted on Petitioner's Exhibit A-6). (Petitioner's Exhibit A, pp. 13-15.)

Ms. Birnbaum and Mr. Kirschner discussed the Midwest ISO's Regional Expansion Criteria and Benefits ("RECB") Cost Recovery – Schedule 26 and requested recovery in Cause No. 42763-RTO 12 of assessed Schedule 26 charges allocated by the Midwest ISO to Duke Energy Indiana for projects that are sponsored by other transmission-owning members of the Midwest ISO. Ms. Birnbaum testified as to the relevance of FERC's Order No. 2000 (December 20, 1999), which sets forth certain functions of a Regional Transmission Organization ("RTO"). Ms. Birnbaum testified as to which RTO functions are pertinent to this Cause No. 42736-RTO 12, and stated that the costs associated with these RTO functions are eligible for recovery as non-fuel related Midwest ISO costs assessed to the Company. Ms. Birnbaum testified that the other transmission owners' sponsored RECB projects serve to benefit the retail customer and are fundamental components of standard market design. Ms. Birnbaum testified that the recovery of such costs is consistent with and appropriate under the May 18, 2004 Order and subsequent orders involving Rider No. 68. Ms. Birnbaum testified that the RECB costs allocated to the Company are the result of decisions by the Midwest ISO and the FERC, that the costs are variable as to the amount and timing, that the costs are expected

to be substantial, and that the incurrence of such costs is beyond the control of the Company. Ms. Birnbaum testified as to which RECB project costs have been allocated to the Company and the amount of Schedule 26 charges incurred to date. Ms. Birnbaum testified that the Company included such Schedule 26 charges, totaling approximately \$45,000, in Cause No. 42736-RTO 12. Ms. Birnbaum testified that the Company is not requesting recovery of Schedule 26 charges and credits assessed and allocated with respect to any Company-sponsored RECB transmission projects, that the determination of how its own projects will be treated for cost recovery purposes will be determined at a later date and that any approval related to other transmission owners' projects should not be viewed as a precedent regarding the appropriate treatment of Company-sponsored projects. Further, Ms. Birnbaum stated that nothing in this proceeding should be interpreted as preventing the Company from pursuing cost recovery or different ratemaking treatment for the Company's non-RECB transmission Projects. (Petitioner's Exhibit A, pp. 16-23, Petitioner's Exhibit B, p. 9, Petitioner's Exhibit C, p. 2-9)

The testimony of Mr. Kirschner provides an overview of the Schedule 26 Network Upgrade Charges assessed by the Midwest ISO to transmission customers for costs of upgrading the transmission system that will directly or indirectly benefit transmission customers through improved reliability and deliverability of power transmitted to transmission customers. Mr. Kirschner testified as to how the Schedule 26 charges are developed and allocated by the Midwest ISO. The testimony of Mr. Kirschner further explained the classification of RECB transmission projects and how the classification of projects determines the cost sharing and allocation methodologies applied by the Midwest ISO. Mr. Kirschner testified as to the process in place which protects the Company and other Midwest ISO customers against unnecessary or excessively costly RECB transmission projects. Mr. Kirschner also testified to an estimated timeline for the future approval by the Midwest ISO of the RECB transmission projects sponsored by the Company that would be eligible for cost sharing. Mr. Kirschner testified that in his opinion the Company's incurrence of the Schedule 26 charges included in this filing with the Commission are reasonable. (Petitioner's Exhibit C, pp. 2-9.)

Ms. Birnbaum testified that the same allocation methods used in Cause Nos. 42736-RTO 3 and 42736-RTO 5 have been used in this filing to distribute the same types of costs between Duke Energy Indiana and Duke Energy Ohio, Inc. (Petitioner's Exhibit A, p. 23.)

The testimony of Mr. Swez provided an overview of the Midwest ISO's Day 2 markets and the Company's participation in those markets. Mr. Swez also testified as to the types of Day 2 Markets costs billed by the Midwest ISO to the Company pursuant to the Midwest ISO's TEMT. Mr. Swez testified that in his opinion the Company's incurrence of the enumerated administrative charges and other Midwest ISO TEMT charges and credits included in this filing with the Commission are reasonable. (Petitioner's Exhibit B, pp. 2-9.)

The testimony of OUCC witness Wes R. Blakley confirmed Duke Energy Indiana's calculation of the amount to be recovered (including the Schedule 26 RECB

amount) under the proposed Rider No. 68 adjustment factors for Duke Energy Indiana's January, February and March, 2008 retail electric billing cycles. Mr. Blakley testified that the OUCC recommended that the Company be permitted to recover the Schedule 26 charges proposed for recovery by the Company (which involve Midwest ISO assessments for RECB projects sponsored by other transmission-owning members of the Midwest ISO), subject to the understanding that the Company would propose an equitable method of crediting ratepayers the proportional share of future revenues in the next RTO proceeding (Public's Exhibit No. 1)

The testimony of OUCC witness Stacie R. Gruca explained the resettlement of Midwest ISO Revenue Sufficiency Guarantee ("RSG") credits and charges resulting from the FERC Order in Docket No. ER04-691-085 and its impact on ratepayers. Ms. Gruca testified that the OUCC recommends that Duke Energy Indiana be allowed to continue to recover RSG First Pass and RSG Second Pass credits and charges due to the FERC resettlement process, if the Petitioner identifies them in specific work papers and testimony in Rider No. 68 proceedings. She also recommended on behalf of the OUCC that Petitioner synchronize future FAC and RTO proceedings and that Petitioner include in future workpapers and testimony any single adjustment exceeding \$3 million. (Public's Exhibit No. 2)

**5. Commission Findings.** Based on the evidence presented in this Cause we find that Duke Energy Indiana has adequately explained the proposed Rider No. 68 adjustment factors for its January, February, March, 2008 retail electric billing cycles. In addition, based upon all of the above, we find that RECB – Schedule 26 costs assessed by the Midwest ISO to the Company involving transmission projects of other transmission owners constitute, within the meaning of Rider No. 68, costs billed to Duke Energy Indiana by the Midwest ISO under the TEMT for standard market design and that the portion of such costs allocable to Duke Energy Indiana's retail electric customers are properly included for recovery under Rider No. 68. Accordingly, we hereby approve such adjustment factors and direct Duke Energy Indiana to include such adjustment factors in the Rider No. 68 filed with this Commission in compliance with this Order.

Additionally, we further find, consistent with the recommendations of the OUCC, that the Petitioner shall in the next RTO proceeding include: a proposal for an equitable method to credit ratepayers the proportional share of future revenues; a recommendation as to how it might further synchronize FAC and RTO proceedings; and whether the Petitioner believes it is appropriate, in the context of these review proceedings, to include workpapers and testimony that specifically support and address any single adjustment exceeding \$3 million.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. Duke Energy Indiana's Rider No. 68 adjustment factors for its January, February and March, 2008 retail electric billing cycles, as described herein, are hereby approved.

2. Duke Energy Indiana is authorized to recover Schedule 26 charges, as provided in Finding 5 above, allocated by the Midwest ISO to Duke Energy Indiana for projects that are sponsored by other transmission-owning members of the Midwest ISO.


3. Prior to placing in effect the Rider No. 68 adjustment factors approved herein, Duke Energy Indiana shall file with the Electricity Division of this Commission a separate amendment to its rate schedules, with clear reference therein that such Rider No. 68 adjustment factors are applicable to the rate schedules reflected on the amendment.

4. This Order shall be effective on and after the date of its approval.

**HARDY, GOLC, SERVER, AND ZIEGNER CONCUR; LANDIS ABSENT:**

**APPROVED: DEC 19 2007**

**I hereby certify that the above is a true  
and correct copy of the Order as approved.**



**Brenda A. Howe  
Secretary to the Commission**